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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,617	03/17/2004	Yoshimoto Matsuda	ACO 386	5897

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EXAMINER

BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,617

Applicant(s)

MATSUDA, YOSHIMOTO

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12 is/are rejected.
- 7) ☒ Claim(s) 8-11 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. The signed declaration has been received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Burnham.

See paragraph 0057, lines 16-19.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okubo et al in view of Jacobsen and Nakase et al.

Okubo et al discloses a stand-up type personal watercraft comprising a body including a hull and a deck covering the hull from above, the body having a foot deck 4 at a rear portion of the deck, on which an operator rides; and a water jet pump 11 configured to propel the watercraft.

Okubo et al clearly does not disclose a four-cycle multi-cylinder engine provided within the body and configured to drive the water jet pump.

It is unclear from Okubo et al whether the engine is disposed forward of the foot deck within the body.

Okubo et al does disclose the engine being substantially at a center position in a longitudinal direction of the body.

Jacobsen discloses the engine J being disposed forward of the foot deck within the body. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to dispose the engine in Okubo et al forward of the foot deck 4. Motivation to do so is to balance the watercraft when a rider is riding in the foot deck 4.

Nakase et al discloses a four cycle multi-cylinder engine driving a jet pump. See column 3, lines 53-55. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide an engine similar to that of Nakase et al in place of the engine of Okubo et al. Motivation to do so is to use a four cycle engine as opposed to a two cycle engine.

Four cycle engines are less polluting.

Okubo et al discloses air intake manifold 16 and exhaust manifold 18 positioned lateral of the engine 10, but does not disclose that the engine is constructed such that a cylinder head is located above a crankcase, and has an air-intake manifold and an exhaust manifold each connected to the cylinder head and extending downward to a lateral position relative to the crankcase.

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Nakase et al discloses that the engine is constructed such that a cylinder head 45 is located above a crankcase, and has an air-intake manifold 56 and an exhaust manifold 47 each connected to the cylinder head and extending downward to a lateral position relative to the crankcase 45. In replacing the engine of Okubo et al with one similar to that of Nakase et al, Okubo et al as modified by Nakase et al would have the engine constructed such that a cylinder head is located above a crankcase, and has an air-intake manifold and an exhaust manifold each connected to the cylinder head and extending downward to a lateral position relative to the crankcase.

Nakase et al discloses oil tank 57 which is placed on an opposite side of the exhaust manifold 47 relative to the engine. In providing an engine similar to that of Nakase et al to the watercraft of Okubo et al, an oil tank similar to 57 of Nakase et al would be provided to Okubo et al.

As shown in figure 3 of Nakase et al, the oil tank of Nakase et al has a space elongated in a vertical direction of the watercraft body.

Nakase et al discloses an oil-collecting structure disposed at a rear portion of a bottom portion within the crankcase 39, and configured to collect the oil reserved in the crankcase of the engine and to deliver the oil by pump 61 to the oil tank. Note figure 3

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which is a rear view of the engine. The oil collecting structure in the crankcase feeds pump 61.

In replacing the engine of Okubo et al with an engine similar to that of Nakase et al, Okubo et al will have an engine with an oil-collecting structure disposed at a rear portion of a bottom portion within the crankcase, and configured to collect the oil reserved in the crankcase of the engine and to deliver the oil by a pump similar to pump 61 of Nakase et al to the oil tank. Note figure 3 which is a rear view of the engine.

Okubo et al does not disclose a deck opening formed on an upper portion of the body, and the engine is constructed such that a cylinder head is located above a crankcase, and a cylinder head cover provided over the cylinder head protrudes from an opening face of the deck opening toward outside of the body. Note engine J of Jacobsen and the deck opening through which the head of the engine protrudes. See figure 3 of Jacobsen.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the watercraft of Okubo et al to have a deck opening formed on an upper portion of the body, and the engine is constructed such that a cylinder head is located above a crankcase, and a cylinder head cover provided over the cylinder head protrudes from an opening face of the deck opening toward outside of the body in view of Jacobsen. Motivation to do so is to allow servicing of the engine through the deck opening.

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6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okubo et al, Jacobsen and Nakase et al as applied to claim 1 above, and further in view of Nanami.

Okubo et al discloses muffler 20 but does not disclose a plurality of mufflers provided in an exhaust passage of the engine wherein the mufflers are arranged forward and rearward relative to the engine within the body.

Note in Nanami the mufflers 44 forward of the engine and the mufflers 56 arranged to extend rearward of the engine. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains in view of Nanami to replace the muffler 20 of Okubo et al with two mufflers, one arranged forward of the engine and one arranged rearward of the engine.

Motivation is first to better muffle the exhaust through the use of two mufflers.

Arranging the mufflers forward and rearward of the engine will provided better balance to the watercraft.

Allowable Subject Matter

7. Claims 8-11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamada et al is cited to show mufflers 39 and 52.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
1/31/05

sdb